

shall use budget data, as submitted pursuant to NYCRR subpart 635-4 or 681.12 (which ever is applicable).

- (iii) The [initial] base period rate for under thirty-one bed Region II and III non-state operated facilities shall be computed on the basis of a full twelve month cost report submitted by the provider for the twelve month period beginning January 1, [1994] 1999 and adjusted in accordance with subparagraph (3)(ii) of this subdivision. The [initial] base period rate for under thirty-one bed Region I non-state operated facilities shall be computed on the basis of a full twelve month cost report submitted by the provider for the twelve month period beginning July 1, [1994] 1999 and adjusted in accordance with subparagraph (3)(ii) of this subdivision. For state operated facilities of under thirty-one beds, regardless of region, the initial base period rate shall be computed on the basis of a full twelve month cost report submitted by the provider for the twelve-month period beginning April 1, [1994] 1999 and adjusted in accordance with subparagraph (3)(ii) of this subdivision. Thereafter, the base period rates for under thirty-one bed facilities shall be computed on the basis of a full twelve month cost report submitted by the provider for the twelve month period beginning [36] 48 months prior to the effective date of the base period. [However, there shall be no base period rate for the rate periods beginning January 1, 2002, April 1, 2002 and July 1, 2002.] For a newly certified under thirty-one bed facility, OMRDD shall use the budget data submitted pursuant to NYCRR subpart 635-4 or 681.12 (which ever is applicable).
- (iv) For a newly certified facility, the initial base period rate shall be determined pursuant to subparagraph (vii) of this paragraph. For under thirty-one bed facilities the units of service are determined by multiplying the certified capacity of the facility by 365 days. For over thirty bed facilities, units of service are the certified capacity of the facility multiplied by 365 days multiplied by 99 percent. A facility's submitted budget costs may be adjusted based on a comparison to the actual costs of other existing facilities operated by the provider in order to determine the costs of an efficient and economic operation. If the provider does not operate other facilities, the submitted budget costs may be adjusted based on a comparison to the average costs of other facilities in the same region.
- (v) For facilities which are not newly certified facilities, the initial base period rate shall be determined pursuant to subparagraph (vii) of this paragraph. For under thirty-one bed facilities the units of service are determined by multiplying the certified capacity of the facility by 365 days. For over thirty bed facilities, units of service are the higher of the certified capacity of the facility multiplied by 365 days multiplied by 99 percent, or the actual reported units of service.
- (vi) As appropriate, OMRDD shall apply trend factors to each facility's reimbursable operating costs, except for education and related services.

TN **03-36**-10- Approval Date MAR 11 2004Supersedes TN _____ Effective Date JAN - 2003

(vii) The computation of the rate resulting from the application of this paragraph can also be represented by the following formula:

(a)
$$\text{trended reimbursable operating costs} + \text{untrended reimbursable operating costs} + \text{reimbursable capital costs} = \text{total reimbursable costs.}$$

(b)
$$\text{total reimbursable costs} / \text{units of service} = \text{the rate.}$$

(viii) For [under thirty-one bed] **all** facilities there shall be a day [treatment] **program services** add-on [such] **so** that facilities which have day [treatment] **program** services included in their [operating costs] **rate** shall be reimbursed [in their base period rate. For day treatment services, a facility shall be reimbursed at a varying funding level, for a maximum of 225 days per year. The facility will be reimbursed at the lower of either the actual costs per the cost report (or for budget costs for newly certified facilities) or the calculated per diem fee for day treatment services pursuant to 14 NYCRR section 690.7 of this Title in effect for the appropriate fee period.] **as follows for these services. The add-on shall reflect service needs as well as efficiency and economy of operation.**

[(ix) For all facilities there shall be a day services add-on such that facilities which have the following day services included in their operating costs shall be reimbursed as follows for these services.]

(a) For sheltered workshop services, effective July 1, 1995, the facility will receive a reimbursable cost of \$9,899 per annum for each program participant. For program participants to whom the conditions set forth in subparagraph [(x)](ix) of this paragraph apply, the facility will receive a reimbursable cost of \$9,499 per annum for each program participant.

(b) For day training [services] **programs**, effective July 1, 1995, the facility will receive a reimbursable cost of \$11,033 per annum for each program participant. For program participants to whom the conditions set forth in subparagraph [(x)](ix) of this paragraph apply, the facility will receive a reimbursable cost of \$10,633 per annum for each program participant.

TN **03-36** Approval Date MAR 11 2004
Supersedes TN _____ Effective Date JAN - 2003

- (c) [Upon an agency's application] If an agency applies to OMRDD prior to January 1, 2003 and for participants receiving services in day training facilities where the Developmental Disability Profile average score for the site exceeds 348 for the adaptive score and exceeds 10 for the health score, the amount of [reimbursement] the add-on shall be determined by a budget review. The amount of [reimbursement] the add-on received by the ICF/DD for such day training services shall reflect individual service needs as well as efficiency and economy of service provision. Effective January 1, 2003, for any facility to which this subclause applies the add-on will be equal to the reimbursement that was in the facility's rate on December 31, 2002, and that was applicable to day training services described in this subclause.
- (d) The costs of day program services delivered in a certified Day treatment facility (see Part 690 of 14 NYCRR) may not be included as an add-on to the ICF/DD rate.
- (e) Effective January 1, 2003, a provider may request that a day services add-on be included in the facility's rate. The day program services add-on for all day program services shall be either the day program services reimbursement included in the rate on December 31, 2002 and adjusted for actual service delivery; or the lower of:
- (1) the actual costs per the cost report, or
 - (2) the budget costs
 - (3) The costs in subclauses (1) and (2) of this clause are subject to a desk audit. Administrative review of these desk audits shall be in accordance with subdivision 635-6(h) if 14 NYCRR.
- [(c)] (f) Effective June 1, 1995, the facility will be reimbursed for education and related services in accordance with Title 8 NYCRR. These costs shall not be trended.
- [(x)](ix) Effective July 1, 1997 an under thirty-one bed facility may submit to the commissioner a request for a transportation add-on for transportation of

TN **03-36**Approval Date MAR 11 2004Supersedes TN _____ Effective Date JAN 1 2003

persons to and from an outpatient service certified pursuant to Article 28 of the Public Health Law for certain persons if:

- (a) in order to meet a person=s active treatment needs the person=s Individual Program Plan requires a day service (comprising regular attendance at a sheltered workshop or a day training service) in combination with visits to the outpatient service described above, and
- (b) prior to July 1, 1996, transportation to and from the outpatient service was not included in the rate for the operator of the outpatient service, and
- (c) prior to July 1, 1996, the rate approved by the local social services district was billed separately by a transportation vendor for transportation to and from the outpatient service, and
- (d) the vendor ceased billing for transportation of persons residing in the facility to and from the outpatient service.

[(xi)](x)The transportation add-on shall be a reimbursable cost added to a facility=s rate subject to the conditions set forth in subparagraph [(x)](ix) of this paragraph. The transportation add-on shall be calculated using payment/rate data based on local social service district approved Medicaid payment rates made to transportation vendors as of June 30, 1996. A weighted transportation average shall be calculated for each facility by dividing the aggregate transportation payments by the aggregate day service transportation round trips for all persons described in subparagraph [(x)](ix) of this paragraph.

- (a) The weighted transportation average for each facility shall be ranked among all day treatment facilities state wide pursuant to the methodology for calculating the transportation component add-on for day treatment facilities described in NYCRR Part 690 subclauses 690.7 (e)(3)(vii)(a)(1) through and including (a)(3).
- (b) The modified weighted transportation average shall be multiplied by the total to and from day service transportation units of service to determine reimbursable transportation costs.

(5) Computation of the subsequent period rate.

- (i) The reimbursable operating costs contained in the subsequent period rates shall be computed as follows. OMRDD shall determine the total

TN **03-36** Approval Date MAR 11 2004
Supersedes TN _____ Effective Date JAN - 2002

reimbursable operating costs (with the exception of education and related service costs, sheltered workshop services, day training services) included in the payment rate in effect on December 31, March 31 or June 30 of the immediately preceding rate period applicable to that facility. The dollars for sheltered workshop and day training services shall be revised based upon the number of individuals participating in the program. The reimbursable operating costs plus any revised sheltered work and day training costs will be increased by the trend factor described in subdivision (g) of this section and may be adjusted for appropriate appeals. Education and related services will be updated in accordance with clause (4)(ix)(c) (f) of this subdivision. OMRDD will determine the capital cost portion of the subsequent period rate by reviewing the component relating to capital costs for substantial material changes. If such changes conform to the requirements of paragraphs (f)(1) and (3) of this section and subdivision (j) General Rules for Capital Costs and Costs of Related Party Transactions, and subdivision (k) Glossary, OMRDD will make corresponding adjustments in computing the subsequent period rate.

- (ii) The computation of the rate resulting from the application of this paragraph can also be represented by the following formula:

(a) $\text{trended reimbursable operating costs} + \text{untrended reimbursable operating costs} + \text{reimbursable capital costs} = \text{total reimbursable costs}$.

(b) $\text{total reimbursable costs} / \text{units of service} = \text{the rate}$.

- (iii) For a newly certified facility which begins to provide services that fall within a subsequent period, the initial rate shall be calculated as though it were a base period rate.

- (d) Cost category screens and reimbursement for under thirty-one bed facilities.

In order to determine the reimbursable operating costs to be included in the rate calculation, the following screens (i.e., the maximum amount that will be allowed for a specific item or group of items) will be used. The regional screens corresponding to the actual geographic location of the facility will be applied.

- (1) Administration screens and reimbursement.

- (i) Screens.

- (a) Administrative screen values shall be equal to the sum of the total reimbursable administrative costs and the total reimbursable administrative fringe benefits, less the value of the efficiency adjustment, included in the rate effective on the last day of the

-13-

TN **03-36**

Approval Date MAR 11 2004

Supersedes TN _____ Effective Date JAN - 2003

(b) Direct care regional salaries.

Region

I	\$[26,024]	<u>\$29,375</u>
II	[24,627]	<u>29,522</u>
III	[21,085]	<u>25,005</u>

Note: The above values are in base year dollars.

- (ii) Reimbursable direct care costs shall be the lesser of the base year costs/budget costs or the screen values established by subparagraph (i) of this paragraph.

(3) Support personal service screens and reimbursement.

- (i) Screen. The support screen value shall be the support FTEs multiplied by the regional salary.

(a) Support FTE screen values for budget-based facilities:

Bed size	Support FTE value
4	[0.59] <u>0.55</u>
5	[0.74] <u>0.71</u>
6	[0.89] <u>0.87</u>
7	[1.04] <u>1.03</u>
8	1.19
9	[1.34] <u>1.35</u>
10	[1.49] <u>1.50</u>
11	[1.64] <u>1.66</u>
12	[1.79] <u>1.82</u>
13	[1.94] <u>1.98</u>
14	[2.09] <u>2.14</u>
15	[2.24] <u>2.30</u>
16	[2.39] <u>2.46</u>
17	[2.54] <u>2.61</u>
18	[2.69] <u>2.77</u>
19	[2.84] <u>2.93</u>
20	[2.99] <u>3.09</u>
21	[3.14] <u>3.25</u>
22	[3.29] <u>3.41</u>
23	[3.44] <u>3.56</u>

24	[3.591] <u>3.72</u>
25	[3.7,41] <u>3.88</u>
26	[3.891] <u>4.04</u>
27	[4.041] <u>4.20</u>
28	[4.191] <u>4.36</u>
29	[4.341] <u>4.52</u>
30	[4.491] <u>4.67</u>

(b) Support FTE screen values for cost-based facilities are based on the base year cost report.

(c) Support regional salaries.

Region

I	\$[26,024] <u>29,375</u>
II	[24,627] <u>29,522</u>
III	[21,085] <u>25,005</u>

Note: The above values are in base year dollars.

(ii) Reimbursable support personal service costs shall be the lesser of the base year costs/budget costs, or the screen values established in subparagraph (i) of this paragraph.

(4) Clinical screens and reimbursement.

(i) For facilities which are not newly certified, the clinical screen shall be the [value contained in the base year cost report] the appropriate clinical regional salary multiplied by the base year cost report clinical FTEs. Clinical regional salaries are:

Region

<u>I</u>	<u>\$56,510</u>
<u>II</u>	<u>53,584</u>
<u>III</u>	<u>40,414</u>

Note: The above values are in base year dollars.

TN **03-36**

Approval Date

MAR 11 2004

Supersedes TN

Effective Date

JAN - 2003

- (ii) For newly certified facilities, that have a rate effective on the last day of the immediately preceding rate period, the [clinical screen will be equal to the clinical costs] reimbursable clinical costs will be the clinical FTEs approved and reimbursed in the rate effective on the last day of the immediately preceding rate period multiplied by the lesser of:
- (a) the clinical average salary reimbursed in the rate on the last day of the immediately preceding rate period detrended to the base year; or
- (b) the appropriate clinical regional salary listed in subparagraph (i) of this paragraph.
- (iii) For newly certified facilities, that do not have a rate effective on the last day of the immediately preceding rate period, [the clinical screen will be based upon budgeted FTEs] OMRDD will consider budgeted FTEs and average salaries, reviewed and adjusted if necessary through a desk audit process [and multiplied by the base year average reimbursed clinical salary of the other facilities operated by the provider. If the provider does not operate any other facilities then a base year regional average reimbursed clinical salary will be utilized.] The reimbursable clinical costs shall be the desk-audited budgeted clinical FTEs multiplied by the lesser of:
- (a) the desk audited budgeted clinical average salary, detrended to the base year; or
- (b) the appropriate regional clinical salary listed in subparagraph (i) of this paragraph.

TN 03-36 Approval Date MAR 11 2004
Supersedes TN _____ Effective Date JAN - 2003

- (iv) For facilities which are not newly certified the reimbursable clinical costs shall be the [base year clinical costs. For newly certified facilities the reimbursable costs shall be the lesser of the clinical budget year costs or the screen values established in subparagraph (ii) or (iii) of this paragraph.] base year cost report clinical FTEs multiplied by the lesser of:
- (a) the base year cost report clinical average salary; or
- (b) The appropriate clinical regional clinical salary listed in subparagraph (i) of this paragraph.
- (5) Fringe benefit screens and reimbursement.
- (i) For every new rate cycle, OMRDD shall compute a facility-specific fringe benefit percentage. This percentage shall be determined by summing the direct care, clinical and support fringe benefit costs from the base year budget or cost report and dividing this sum by the sum of direct care, clinical and support personal service costs (exclusive of contracted personal service) from the base year budget or cost report.
- (ii) For newly certified facilities, that have a rate effective on the last day of the immediately preceding rate period, the fringe benefit percentage screen shall equal the fringe benefit percentage contained in the rate effective on the last day of the immediately preceding rate period.
- (iii) For newly certified facilities, that do not have a rate effective on the last day of the immediately preceding rate period, the fringe benefit percentage screen (as calculated in subparagraph (i) above) shall equal the average percentage reimbursed to existing facilities currently operated by the provider. If there are no existing facilities, then the fringe benefit percentage screen shall equal the average reimbursed fringe benefit percentage of any other programs operated by the provider. If the provider does not operate any other programs, then the fringe benefit percentage screen shall equal the regional average percentage reimbursed to other facilities.
- (iv) Reimbursable fringe benefit costs shall be equal to the computed fringe benefit percent established in subparagraphs (i), (ii) or (iii) of this paragraph multiplied by the reimbursable direct care, clinical and support personal service dollars, exclusive of contracted personal service.
- (6) Support OTPS (other than personal service) screens and reimbursement.

[(i) Capacity	Region I	Region II	Region III
4	51,314	41,999	39,150
5	64,142	52,499	48,938
6	76,970	62,999	58,725
7	89,799	73,499	68,513
8	102,627	83,999	78,300

-18-

TN **03-36**

Approval Date

Supersedes TN

Effective Date

Mar 2004

JAN 2005

9	115,456	94,498	88,088
10	128,284	104,998	97,875
11	141,112	115,498	107,663
12	153,941	125,998	117,450
13	166,769	136,498	127,238
14	179,598	146,998	137,025
15	192,426	157,497	146,813
16	205,254	167,997	156,600
17	218,083	178,497	166,388
18	230,911	188,997	176,175
19	243,740	199,497	185,963
20	256,568	209,997	195,750
21	269,396	220,496	205,538
22	282,225	230,996	215,325
23	295,053	241,496	225,113
24	307,882	251,996	234,900
25	320,710	262,496	244,688
26	333,538	272,996	254,475
27	346,367	283,495	264,263
28	359,195	293,995	274,050
29	372,024	304,495	283,838
30	384,852	314,995	293,625]

(i) The facility's support OTPS screen is determined by multiplying the certified capacity by the appropriate regional per bed value.

(ii) Support OTPS regional per bed values:

<u>Region</u>	
<u>I</u>	<u>\$16,097</u>
<u>II</u>	<u>13,085</u>
<u>III</u>	<u>16,418</u>

Note: The above values are in base year dollars.

[(ii)](iii) Reimbursable support OTPS costs shall be the lesser of the base year costs / budget costs, or the screen values established in subparagraph (i) of this paragraph.

- (7) Utility costs will not be included within the support OTPS screen. The reimbursable utility costs shall be the base year costs or budget costs.
- [(8) OMRDD shall include in reimbursable costs a regional FTE add-on calculated by multiplying FTEs established per subparagraph (2)(i)(a) of this paragraph by the following dollar amounts:

Region One	\$624.00
Region Two	\$623.35
Region Three	\$556.87

Note: The above values are in base year dollars.]

TN **03-36** -19 Approval Date Jan 1 2004
Supersedes TN _____ Effective Date JAN - 1 2003

which is repaid shall be deposited in a secure investment approved by the commissioner.

(b) Withdrawals from such investment shall be made only for the purpose of repayment of indebtedness owed on the real property of the facility. With the commissioner's approval based on cost savings, a provider may use withdrawals from such investment for repayment of indebtedness owed on the real property of another facility which received a capital grant under this subparagraph or under subparagraph (ix) of this paragraph, or if there is no such other facility which is mortgaged, for the repayment of indebtedness owned on the real property of another facility which is mortgaged under the same mortgage as the facility.

(c) Each withdrawal must be approved by the commissioner.

(d) If the provider ceases to operate the facility as an intermediate care facility for the developmentally disabled, or as any facility certified by OMRDD, it will repay to OMRDD the balance on deposit in the secure investment at the time of such cessation, including interest earned on the investment.

(e) Depreciable project costs shall mean those acquisition and construction costs of a facility which have been approved, either before or after audit, by the New York State Office of the State Comptroller or by OMRDD or by OMRDD's designee. Such costs shall include the cost of land.

(f) HUD funding shall mean lower income housing assistance under section 8 of the United State Housing Act of 1937, as amended 42 U.S.C. section 1437(f) and/or a loan or loans pursuant to section 202 of the Housing Act of 1959, as amended 12 U.S.C. section 1701(q).

(iv) Notwithstanding subparagraph (f)(1)(viii) of this paragraph, any provider which has been notified by OMRDD before April 1, 1986 that there is a preliminary reservation of State aid funds for a capital grant pursuant to Mental Hygiene Law, section 41.18 (c) or section 41.23, which is not receiving and has no commitment to receive HUD funding for the facility which is the subject of the capital grant, may apply to the commissioner to have the basis for computing depreciation on the facility include the facility's depreciable project costs which were funded with the capital grant. Such application must be submitted to the commissioner on or before September 30, 1986 on the forms prescribed by the commissioner. Such application shall be granted at the discretion of the commissioner upon a showing that inclusion in the depreciation basis of the facility's depreciable projects which were funded with the capital grant is necessary

-35-

TN **03-36**

Approval Date

JAN - 1 2004

Supersedes TN

Effective Date

JAN - 1 2003